

### **REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 19-24 and 30-35 are pending, with Claims 30-33 withdrawn from consideration.

#### **Amendments to the Specification**

Applicants have amended the specification at page 3, lines 14-19, to include a more specific description of the claimed invention in the Summary of the Invention section.

Applicants have amended the specification at page 14, line 16, to correct a typographical error.

No new matter has been added by this Amendment.

#### **Amendments to the Claims**

Claims 19-24 and 30-35 have been examined with no claims being allowed. Applicants have amended Claims 19 and 34 to clarify the language of these claims in order to overcome the rejections under 35 U.S.C. §112, second paragraph.

Claim 19 has been further amended to recite an absorbent composite structure, and to recite the configuration of the disposable garment as having the TEM permanently bonded to and extending transversely beyond the linear side edges of the absorbent composite structure. Support for this amendment is provided on page 18, lines 7-12, and in Figs. 3 and 4.

No new matter has been added by this Amendment.

No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims remains unchanged.

**Amendment to the Drawings**

A corrected drawing of Fig. 12, reflecting the previously proposed drawing correction, is attached.

**Claim Rejections - 35 U.S.C. §112**

The rejection of Claims 19-24 and 34-35 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention is respectfully traversed.

Applicants have amended Claim 19 to clarify that either both of the front side panels, or both of the back side panels, or all of the front and back side panels include the targeted elastic material.

Applicants have amended Claim 34 to provide a positive structural antecedent basis for “the high tension zone,” as suggested by the Examiner.

For at least the reasons given above, Applicants respectfully submit that currently amended Claims 19 and 34, and the claims depending therefrom, are not indefinite. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

**Claim Rejections - 35 U.S.C. §102**

The rejection of Claims 19-24 and 34-35 under 35 U.S.C. §102(b) as being anticipated by Van Gompel et al. (EP 0 743 052) is respectfully traversed.

Van Gompel et al. disclose a disposable three-dimensional garment having a full outer cover.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Van Gompel et al. do not disclose each and every element or limitation of Claim 19. Applicants’ invention as claimed in independent Claim 19 requires that the front and/or back panels include a targeted elastic material and that the targeted elastic material is bonded to and extends transversely beyond a linear side edge of an absorbent composite structure. An absorbent composite structure, as described on page 14, lines 13-22, of the

specification of the present application, includes an outer cover, a bodyside liner, and an absorbent assembly between the outer cover and the bodyside liner.

Targeted elastic material ("TEM") is defined on page 7, lines 4-10, of the specification of the present application. More particularly, TEM is a single elastic material or laminate having targeted elastic regions. TEM's include only materials or laminates which are made in a single manufacturing process, and which are capable of exhibiting targeted elastic properties without requiring an added elastic band or layer in the targeted elastic region. TEM's do not include materials having elasticized regions achieved through separate manufacture of an elastic band, and subsequent connection of the elastic band to the underlying material.

Van Gompel et al. do not disclose side panels that include TEM, wherein the TEM is permanently bonded to and *extends transversely beyond* a linear side edge of an absorbent composite structure. Instead, in Van Gompel et al., the outer cover fully encompasses the garment (Abstract; Col. 2, lines 1-3; Col. 4, lines 1-3). Thus, no side panels or portions of side panels extend transversely beyond a linear side edge of the outer cover in the garment of Van Gompel et al.

For at least the reasons presented above, Applicants respectfully submit that Claim 19 is not anticipated by Van Gompel et al. Because Claims 20-24 and 34-35 depend from Claim 19, these claims are also not anticipated by Van Gompel et al. Thus, Applicants respectfully request withdrawal of this rejection.

### Claim Rejections - 35 U.S.C. §103

The rejection of Claims 19-24 and 34-35 under 35 U.S.C. §103(a) as being unpatentable over 3M PCT Publication No. WO 95/34264 (hereinafter "PCT '264") in view of Van Gompel et al. (EP 0 743 052) is respectfully traversed, particularly in view of the above Amendment and the following remarks.

PCT '264 discloses elastic sheet-like composites and disposable garments including such elastic sheet-like composites. More particularly, the garments in PCT '264 may include the elastic sheet-like composites adhered to an outer cover around the waist and/or leg openings. Alternatively, the garments in PCT '264 may have an entire outer cover formed from the elastic sheet-like composites.

As indicated by the Examiner, PCT '264 fails to disclose a first high tension zone aligned with the leg openings in combination with a second high tension zone aligned with the waist opening and a low tension zone therebetween in the side panels. Furthermore, PCT '264 fails to disclose or suggest a separate TEM in the side panels, wherein the TEM is permanently bonded to and *extends transversely beyond* a linear side edge of an absorbent composite structure of the garment.

*Examiner's  
rejection*

As explained above, Van Gompel et al. also fail to disclose or suggest side panels that include a TEM, wherein the TEM is permanently bonded to and *extends transversely beyond* a linear side edge of an absorbent composite structure.

Both PCT '264 and Van Gompel et al. disclose garments having fully encompassing outer covers. Neither PCT '264 nor Van Gompel et al. disclose or suggest separate side panels permanently bonded to an absorbent composite structure of the garment, wherein the side panels extend transversely beyond a linear side edge of the absorbent composite structure. Thus, the deficiencies of PCT '264 are not overcome by the combination of PCT '264 with Van Gompel et al. Furthermore, Van Gompel et al. fail to provide any motivation to modify the teachings of PCT '264 to achieve the present invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of PCT '264 in view of Van Gompel et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### **Double Patenting Rejections**

#### **A. U.S. Application No. 09/855,188**

The provisional rejection of Claims 19-24 and 34-35 under the judicially created doctrine of obviousness-type double patenting over claims 1-19, 21, 50-59 of copending U.S. Application No. 09/855,188 in view of Van Gompel et al. (EP 0 743 052) and Bunnelle et al. is respectfully traversed.

The present application and U.S. Application No. 09/855,188 are pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in either of these applications.

Where a provisional rejection under the judicially created doctrine of obviousness-type double patenting is made between two or more applications, M.P.E.P. §804(I)(B) states that “[i]f the ‘provisional’ double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the ‘provisional’ double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent.” It is not evident which of the pending applications will become allowable first. Therefore, any action by Applicants with regard to this provisional rejection is premature. Additionally, the Bunnelle et al. reference has been cited in this rejection, but it is unclear which Bunnelle et al. reference is intended. In the Information Disclosure Statement filed May 29, 2001, Applicants cited 4 different Bunnelle et al. references.

**B. U.S. Application No. 09/855,189**

The provisional rejection of Claims 19-24 and 34-35 under the judicially created doctrine of obviousness-type double patenting over claims 1-24 and 49-58 of copending U.S. Application No. 09/855,189 in view of Van Gompel et al. (EP 0 743 052) and Bunnelle et al. is respectfully traversed.

The present application and U.S. Application No. 09/855,189 are pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in either of these applications. Where a provisional rejection under the judicially created doctrine of obviousness-type double patenting is made between two or more applications, M.P.E.P. §804(I)(B) states that “[i]f the ‘provisional’ double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the ‘provisional’ double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent.” It is not evident which of the pending applications will become allowable first. Therefore, any action by Applicants with regard to this provisional rejection is premature. Additionally, the Bunnelle et al. reference has been cited in this rejection, but it is unclear which

Bunnelle et al. reference is intended. In the Information Disclosure Statement filed May 29, 2001, Applicants cited 4 different Bunnelle et al. references.

**Statement Concerning Common Ownership**

In response to the Examiner's assertion that Claims 19-24 and 34-35 are directed to an invention not patentably distinct from Claims 1-19, 21, and 50-59 and Claims 1-24 and 49-58 of commonly assigned copending U.S. Application Nos. 09/855,188 and 09/855,189, respectively, Applicants' undersigned attorney hereby states that U.S. Application Nos. 09/855,188; 09/855,189; and 09/855,195 were, at the time the invention of Application No. 09/855,195 was made, owned by Kimberly-Clark Worldwide, Inc.

**Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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